

REMARKS

Claims 1, 3-12, 15-26 and 28-39 are pending. Claims 2, 14, 27 and 40-42, non-elected, and claim 13, have been cancelled without prejudice. Claims 1, 6, 7, 15, 19, 26 and 28-39 have been amended.

Claims 6, 15 and 19 were objected to because of perceived informalities. Those claims have been amended, obviating the objections.

Claims 1, 6, 9, 13, 15, 19, 20, 26, 28, 32, 33 and 39 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite. Claim 13 has been cancelled, rendering its rejection moot. The other claims have been amended, where necessary, and are believed clearly to conform to Section 112, second paragraph. As to the objection to the term “effective,” this term is believed clear from its use in the specification, for example, at page 27, paragraph [0080], Figs. 4 and 6. Withdrawal of the rejections under Section 112 is respectfully requested.

Claims 1, 3-10, 13, 15-23, 26, 28-36 and 39 were rejected under 35 U.S.C. §103 over U.S. Patent No. 6,865,160 to Bare in view of U.S. Patent No. 6,542,468 to Hatakeyama. Claims 11, 24 and 37 were rejected under 35 U.S.C. §103 over Bare and Hatekeyama, and further in view of U.S. Patent No. 7,539,142 to Gurleg et al. Claims 12, 25 and 38 were rejected under 35 U.S.C. §103 over Bare and Hatekeyama, and further in view of U.S. Patent No. 5,878,026 to Greenberg et al. Applicants traverse.

In claim 1, the communication paths are decided making reference to the transmission history. While the transmission history includes information relating to a time at which the transmission has taken place, because it is a history, applicants submit that Hatakeyama does not teach that such timing information is employed for a particular purpose, that is, for deciding a certain matter.

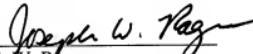
Hatakeyama utilizes the sample of the response time, the acquisition of which, needless to say, was performed in the past. However, applicants have found no teaching in Hatakeyama of utilizing such transmission timing thereby to decide the communication path.

Further, the claimed invention utilizes only the time from which the path status information is effective, or the transmission history after transmission of the packet specified with transmitted packet identification information. The claimed invention is characterized in limiting the scope of the transmission histories that are utilized to the transmission history that is obtained based on the time from which the current path status information is effective, or the transmission history that is obtained after transmission of the packet specified with transmitted packet identification information. Namely the transmission history is obtained after updating the latest path status information. In contrast, the cited art does not disclose a dependency on the time-series history or its scope of the past samples, as recited in claim 1. The other independent claims are believed distinguishable for substantially similar reasons. The dependent claims are believed patentable for substantially similar reasons.

In view of the foregoing, applicants believe the pending application is in condition for allowance.

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Respectfully submitted,

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